IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

FIRST APPEAL NO. 431 OF 1992

The State of Maharashtra ..Appellants

versus

Kashinath Tanaji Pawar ..Respondent

Mr. S. N. Gawade for the Appellants.

None for the Respondents.

CORAM : D. G. DESHPANDE,J.

DATE : 31ST MARCH, 2005

ORAL ORDER :

1. Heard learned AGP for the State. Nobody is present for the Respondents.

2. This appeal is filed by the State against the order of the Reference Court - Joint District Judge, Nashik, dated 27.9.1991, enhancing compensation from Rs.11,000/- per hectare as fixed by the SLAO to Rs.20,000/- per hectare.

3. From the judgment, it is clear that all the sale instances tried to be proved by the claimants were rejected by the court on the ground that the

lands involved in those sale instances were far away from the acquired land. Opponent i.e. State also examined one witness but his sale instance was also rejected by the court on the same ground. It is therefore clear that for enhancing compensation, no sale instances were there before the court which could be relied upon. Further in paragraph 23 the court observed and noted that **" ..from the trend of the prices of these lands of village Chandanpuri, it is found that the prices of the lands of the Chandanpuri varying from Rs.12,000/- and above. This was more than what the Special L.A.O. has granted at the rate of Rs.11,000/- per hectare. We have the evidence from these witnesses which shows that for about two years before issuing the notification under Section 4, the prices were rising three or four times..."** and therefore for this reason the court enhanced price at Rs.20,000/- per hectare.

4. It is true that the court has taken into consideration the rising trend of prices for a period of two years from the date of notification under Section 4 or prior thereto. However, fixing price at Rs.20,000/- per hectare does not appear to be justified. Rs.12,000/- was the basic price then escalation of the price at the rate of 10% per annum could have been awarded i.e. 10% of Rs.12,000/- =

Rs.1,200/- , then Rs.13,200/- x 10 = Rs.1,320/-, therefore total compensation comes to Rs.14,520/-. Therefore this appeal is required to be allowed to that extent. It has to be noted that the court has to come to a specific conclusion that this land was Jirayat land and dry crop land and not as Bagayat land as contended by the claimants. Therefore, order :

ORDER

. Impugned order dated 27.9.1991 is modified.

. Claimants will be entitled to compensation at the rate of Rs.14,520/- per hectare instead of Rs.20,000/- per hectare. Consequently solatium will come down. Rate of interest to remain the same. No order as to costs.

31.3.2005 (D.G. DESHPANDE, J.)